

ZONING BOARD OF APPEALS
Wednesday, February 17, 2010
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members:

Alicia Neubauer
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent:

Julio Salgado
Aaron Magdziarz

Staff:

Todd Cagnoni - Deputy Director, Construction Services
Sandra Hawthorne – Administrative Assistant
Jon Hollander – City Engineer, Public Works
Frank Schmitt – Chief, Fire Prevention

Others:

Reid Montgomery – Director, Community & Economic Development
Kathy Berg, Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, March 1, 2010, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting. The City's web site address for minutes of this meeting are listed on the agenda as well.

A **MOTION** was made by Scott Sanders to **APPROVE** the minutes of the January 20, 2010 meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 3-0, with Alicia Neubauer abstaining as she was not in attendance at the January meeting and Julio Salgado and Aaron Magdziarz absent.

ZBA 001-10

Applicant
Ward 11

901 9th Street and 1216 9th Avenue

Ned Burns, Jr. / 9th Rail, LLC

Zoning Map Amendment from R-2, Two-family Residential District to I-1, Light Industrial District

Variation to allow six foot high site-obscuring fence in place of landscape buffer between parking lot and R-2 Zoning District to the west

Variation to omit interior landscaping in an I-1, Light Industrial District

The subject property is located north of 9th Avenue, south of Railroad Avenue, west of 9th Street and east of 8th Street. Attorney Ann Dempsey and Ned Burns, Jr. were present. Attorney Dempsey reviewed the requests of the Applicant. This vacant lot is adjacent to a larger parcel which includes a 62,176 sq. ft. industrial building, with existing tenants. The Applicant plans to use the parking lot for additional parking for these tenants and to support the uses of the building. Because a parking lot is not an allowed use in a residential district, the Applicant is requesting a Zoning Map Amendment. This development will be completed in three phases. The 9th Rail is in negotiations to purchase the additional lot to the west, which has a residential structure. The request for sight obscuring fence is requested instead of a landscape buffer because when the additional lot is purchased, the fence would be easier to remove when combining the two lots. Attorney Dempsey addressed the request for Variation to omit interior landscaping. She stated the loss of 6 parking spaces would result if interior landscaping were imposed. She further explained that the architect who designed the site plan indicated to the Applicant that an interior landscaping area would interfere with vehicles backing up. She felt that if landscaping islands are required to be installed at this time, the best area would be in the upper corners of the lot to allow for the additional land purchase and subsequent expansion of the parking lot as a whole. The hardship, according to Attorney Dempsey, is that the landscape islands would have to be removed before expanding the parking lot in Phase 3.

Ms. Neubauer asked how many handicapped spaces were there at this time. Mr. Burns was unable to answer that question specifically, stating the parking lot still needs to be re-stripped. Mr. Roszkowski stated there was a way to meet all the requirements including a ten foot landscape buffer and parking requirements with minimal changes to the site plan. Mr. Sanders felt the Applicant did not really have a hardship, but rather preferred not to do required landscaping. Attorney Dempsey wished to clarify that the Applicant is agreeable to meeting landscaping requirements when all three phases of the project are completed, but they do not want to put in temporary landscape islands at this time. Mr. Sockwell asked when they planned to acquire the property. Mr. Burns stated they are only in the negotiation phase at this stage to see if the Applicant and the seller can come to a price agreement. There is also a time frame to work with the bank and to remove the residential structure on the west property.

Mr. Sanders was concerned with the first three parking stalls being in a situation where those vehicles could be backing out into a traffic situation. Mr. Cagnoni stated Public Works would address this; however, these spaces were shown as employee parking so vehicle movement would be limited. Mr. Cagnoni also stated Staff feels there is a way to incorporate interior landscaping into this site that would be a minimal expense and allow to flow through the three phases. Mr. Hollander also felt that there is a way to install the islands and allow for required parking with some changes to the submitted site plan. He felt it was unusual to ask for a Variance with it appeared there were easy options to meet the ordinance as well as increase parking stalls. The Board had no problem with agreeing to the fence Variation.

Staff Recommendation was for Approval of the Zoning Map Amendment and Variation to allow a six foot high site-obscuring fence, and Denial of the Variation to omit interior landscaping, subject to 2 conditions. No Objectors or interested parties were present.

The Board advised the Applicant to work with Staff to allow interior landscaping without a Variation.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from R-2, Two-family Residential District to I-1, Light Industrial District; to **APPROVE** the Variation to allow a six foot high site-obscuring fence in place of landscape buffer between the parking lot and R-2 Zoning District to the west; and to **DENY** the Variation to omit interior landscaping in an I-1, Light Industrial Zoning District at 901 9th Street and 1216 9th Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Submittal of a parking lot permit to be reviewed and approved by Staff
2. Submittal of a revised landscaping plan including three (3) additional shade trees to be incorporated within the subject property and interior landscape islands

ZBA 001-00
Findings of Fact for a Zoning Map Amendment
From R-2, Two-Family Residential Zoning District
To I-1, Light Industrial Zoning District at
1216 9th Avenue and 901 9th Street

Approval of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
 - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
 - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as RL and IL

ZBA 001-10
Findings of Fact for a Variation
To Allow a Six (6) Foot Sight-Obscuring Fence in Place of Landscape Buffer
Between Parking Lot and R-2 to the West
In an I-1, Light Industrial Zoning District at
1216 9th Avenue and 901 9th Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 001-10
Findings of Fact for a Variation
To Omit Interior Landscaping
In an I-1, Light Industrial District at
1216 9th Avenue and 901 9th Street

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title. Interior landscaping will help create a better traffic circulation within the parking lot.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 002-10

Applicant
Ward 6

5444 11th Street

Debra Palka / Palka Trucking, Inc.

Modification of Special Use Permit #059-06 from outside storage of tractor equipment for sale / rent to outside storage of truck and trailer in conjunction with a trucking business in an I-1, Light industrial Zoning District

The subject property is located east of 11th Street, approximately 2,000 feet south of the 11th Street and Samuelson Road intersection. Debra Palka, Applicant, reviewed the request for Modification of Special Use Permit. She stated this location is used strictly for parking 7 trucks and 8 trailers. She is agreeable to Staff conditions. Ms. Palka stated she only intends to use the area in the front of the property. In response to a question from Mr. Sanders, the Applicant stated the storage area, gravel and paved area will not be expanded.

Staff Recommendation was for Approval with 9 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Modification of Special Use Permit #059-06 from outside storage of tractor equipment for sale / rent to outside storage of truck and trailer in conjunction with a trucking business in an I-1, Light Industrial Zoning District at 5444 11th Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meeting all Building and Fire Codes
2. Submittal of Building Permits for Staff review and approval
3. Submittal of a detailed site plan
4. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval
5. Any addition to the gravel area and/or addition to the building will require the submittal of engineered drawings for FEMA and Staff's review and approval
6. A letter of Map Revision (LOMR) for the flood plain from FEMA for any expansion of the gravel area as indicated on site plan Exhibit D
7. A letter of Map Revision (LOMR) for the flood plain from FEMA for any addition to the building
8. The site is limited to the storage of trucks and trailers
9. Any parking or storage surface must be asphalt or concrete

ZBA 002-10

**Findings of Fact for a Modification of Special Use Permit \$059-06
From Outside Storage of Tractor Equipment For Sale / Rent
To Outside Storage of Truck and Trailer
In Conjunction with a Trucking Business
In an I-1, Light Industrial Zoning District at
5444 11th Street**

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the I-1 Zoning District in which it is located.

054-09

Applicant
Ward 6

1277 Asche Avenue

David Jenkins

Special Use Permit for a Planned Unit Development for a Multi-family Residential Development consisting of 158 units on one lot in a C-3, General Commercial Zoning District

Laid Over from January

Prior to the meeting, a written request was received from the Applicant to Lay Over this item to the March agenda.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Special Use Permit for a Planned Unit Development for a Multi-family Residential Development consisting of 158 units on one lot in a C-3, General Commercial Zoning District at 1277 Asche Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

056-09

Applicant
Ward 12

3600 North Main Street

Cynthia R. Shutkas

Special Use Permit for used passenger vehicle sales in a C-2, Limited Commercial Zoning District

Laid Over from January

The subject property is located on the southeast corner of Riverside Boulevard and North Main Street, within the parking lot of the North Town Mall. Cynthia Shutkas, Applicant, reviewed her request for Special Use Permit. Ms. Shutkas stated she also owns two other used car sales lots in neighboring communities. She stated the "roping" that surrounds the vehicle display as shown on the plan submitted will match the color format of the North Town Mall. The vehicle sales area will be 180' x 120', holding 50 vehicles. Ms. Shutkas stated there was a concern by Cliffbreakers to the east regarding the location of the vehicle sales area interfering with parking and the Applicant willingly moved the sales area to the west. She stated there will be three different entrances into the lot. The store front for her business will be the tenant space to the west of Gustafson's Furniture. Ms. Shutkas stated car lot sales do not have the customer volume that retail does and expects only 2 or 3 customers at a time. Her intent is to focus on 2005 and newer models. Ms. Shutkas expressed she is willing to work with Staff to do what is required to make this business an asset to the area.

Mr. Sanders verified that this property will be leased by the Applicant. He felt as a new business this needs to be self contained and not just a roped off area. He explained to the Applicant that he does not doubt her intentions to run a good business but rather that there are code requirements that need to be met in order to establish what is termed as an "outlot" business situation. There was a concern by the Board that landscaping was not shown. Mr. Roszkowski stated they need more information regarding the size of the lot, landscaping, what the business area will actually look like, where customers would park, signage, and other requirements that all other business ventures need to provide.

Staff Recommendation was for Denial. Mr. Cagnoni stated the submitted plan was given to Staff by the Applicant on the day Staff Reports were due to go out. Mr. Roszkowski asked Staff if this location was one that would support a used car lot business. He responded that this area is zoned as C-2, which requires a Special Use Permit for auto sales.

Ms. Neubauer explained to the Applicant that it was not the Board's intention to hold up a business from coming to the area, but rather that not enough information was provided by the Applicant for them to make a decision other than Denial. Mr. Cagnoni explained the voting process through Codes and Regulations and City Council if the Board were to Deny this request.

When asked what the Board required from her, Mr. Sanders told the Applicant she needs to work with Staff to meet their requirements. The Board was in agreement that they would Lay Over this item for one more month, but that no further layovers would be given if the Applicant does not provide Staff with the required information prior to the March 16th meeting.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Special Use Permit for used passenger vehicle sales in a C-2, Limited Commercial Zoning District at 3600 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

050-09

Applicant
Ward 11

1019 Broadway

Frank Amato

Special Use Permit for a night club in a C-4, Urban Mixed-Use District
Laid Over from November, December and January

This Applicant also has a request for the Sale of Liquor by the drink in conjunction with a night club before the Liquor Advisory Board. This item was Laid Over at the November meeting and the Board and Staff requested the Applicant provide further information to Staff prior to the December 15th meeting. No information had been received by the Applicant prior to that meeting and neither Applicant nor Representative were present at the December meeting. This item was laid over to January with a written request sent to the Applicant that further information is required in order for this application to proceed. No information had been received from the Applicant prior to the January meeting and neither Applicant nor Representative were present at that meeting. At the January meeting, the Board was in agreement that this item would be Laid Over to the February meeting, but no further Lay Overs would be granted.

No information has been received from the Applicant prior to this February meeting. Neither Applicant nor Representative was present.

A **MOTION** was made by Alicia Neubauer to **DISMISS** the Special Use Permit for a night club in a C-4, Urban Mixed-Use District at 1019 Broadway. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

Other Business

Mr. Roszkowski expressed congratulations to Fire Chief Frank Schmitt who was in attendance. Chief Schmitt will be retiring at the end of February after 30 years of service with the City. The Board wished him well, stating it was an honor to work with him and that he would be greatly missed.

With no further business to come before the Board, the meeting was adjourned at 7:30 PM

Respectfully submitted,

Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals